

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

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ROBERT LEE ALLEN \*  
Plaintiff, \*  
v. \*  
MR. WILLIE VAUGHNER, *et al.*, \*

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Defendants. \*

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2:07-CV-90-ID  
(WO)

**ORDER ON MOTION**

Upon consideration of Plaintiff's motion to amend filed March 29, 2007 wherein he seeks to amend the relief sought, add additional claims for relief, and requests a trial by jury, it is ORDERED that:

1. Plaintiff's Motion to Amend the relief sought (Doc. No. 13) is GRANTED;
2. Plaintiff's Motion to Amend Complaint to add a claim of negligence (Doc. No. 13), is DENIED. *See Daniels v. Williams*, 474 U.S. 327 (1986) (the Constitution is not implicated by negligent acts of an official causing unintended loss of life, liberty or property); *Davidson v. Cannon*, 474 U.S. 344, 348 (1986) (the protections of the Constitution "are just not triggered by lack of due care by prison officials." );
3. Plaintiff's Motion to Amend Complaint to add a claim of criminal activity,

construed as a request to initiate criminal charges against the named defendants (Doc. No. 13), is DENIED. *See Linda R. S. v. Richard D.*, 410 U.S. 614, 619 (1973) (a “private citizen lacks a judicially cognizable interest in the prosecution or non-prosecution of another.”); *Leeke v. Timmerman*, 454 U.S. 83 (1981) (same); *see also Savage v. Arnold*, 403 F. Supp. 172, 174 (E.D. Pa. 1975) (private citizens have no right to institute criminal prosecutions in federal court); and

4. Plaintiff’s Motion to Amend to add a claim of *respondeat superior* against Captain Gresham (Doc. No. 13) is DENIED. *See Monell v. New York City Dep’t of Social Serv.*, 436 U.S. 658, 694 (1978) (doctrine of *respondeat superior* is inapplicable to § 1983 actions);

Done, this 2nd day of April, 2007.

/s/Wallace Capel, Jr.  
WALLACE CAPEL, JR.  
UNITED STATES MAGISTRATE JUDGE